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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,520	01/03/2001	Michio Masuda	Q62568	9986

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,520

Applicant(s)

MASUDA ET AL.

Examiner

Jeffrey C. Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22 and 27 is/are rejected.
- 7) ☒ Claim(s) 23-26 and 28-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/30/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 22 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Puuskari (U.S. 6,728,208).

Puuskari teaches claims:

22. A multi-layer class identifying communication apparatus, which is provided with an input interface connected to input communication lines, a switch circuit and an output interface connected to output communication lines, and has a capability of allocating a plurality of IP-QOS (Internet Protocol-Quality-of-Service) codes (“The QoS information in the data packets may be located in a packet header, in a lower layer protocol header, or as part of the data itself. The QoS controlling may also be based on the QoS information in QoS Profile, which is related to a certain PDP context, the priority and traffic type information included in the data packets, or both” col.5; starting @ col.5, line 46-) from information contained in a packet data received through one of said input communication lines, said apparatus comprising:

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- an allocating section provided in said input interface, which allocates said IP-QOS codes based on a combination of information contained in an IP packet header and a TCP header defined by an OSI reference model (col.10, lines 11-63); and
- a priority control section, which carries out a delay priority control and a discard priority control depending on a delay class and a discard class respectively, and each class corresponding to any of said IP-QOS codes allocated by said allocating section. (col.4, lines 35-54)

27. A multi-layer class identifying communication method, in an apparatus provided with an input interface connected to input communication lines, a switch circuit and an output interface connected to output communication lines, and has a capability of allocating a plurality of IP-QOS (Internet-Protocol-Quality-of-Service) codes from information contained in a packet data received through one of said input communication lines, said method comprising:

- allocating said IP-QOS codes based on a combination of information contained in an IP packet header and a TCP header defined by an OSI reference model by an allocating section provided in said input interface (col.10, lines 11-63); and
- carrying out a delay priority control and a discard priority control depending on a delay class and a discard class respectively, and each class corresponding to any of said IP-QOS codes allocated by said allocating section by a priority control section. (col.4, lines 35-54)

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Allowable Subject Matter

3. Claims 23-26 and 28-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments with respect to claims 22-31 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/4/06



JEFFREY PWU
PRIMARY EXAMINER